

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

BENJAMIN P. KILLENSWORTH,)
)
)
Plaintiff,)
)
)
v.) No. CIV-10-20-L
)
)
MICHAEL J. ASTRUE,)
Commissioner, Social Security)
Administration,)
)
)
Defendant.)

ORDER

Plaintiff brings this action pursuant to 42 U.S.C. § 405(g) for judicial review of the final decision of the Commissioner of the Social Security Administration denying his application for supplemental security income benefits under Title XVI of the Social Security Act. Pursuant to 28 U.S.C. § 636(b), this matter was referred to the Honorable Gary M. Purcell for initial decision. On January 14, 2011, Judge Purcell issued a Report and Recommendation recommending that the Commissioner's decision be affirmed.

The court file reflects that no party objected to the Report and Recommendation within the time limits prescribed. Having conducted a de novo review of this matter, the court finds that the Report and Recommendation should be adopted in its entirety. The decision of the Commissioner is therefore AFFIRMED with the exception of the Administrative Law Judge's finding that plaintiff suffers from

alcoholism¹ as no substantial evidence supports this finding. The only reference to alcoholism was in one chart notation;² the remaining medical records reflect that plaintiff either does not drink alcohol or only does so on occasion and plaintiff denied drinking to excess during the hearing.³ The finding of alcoholism is simply not supported by the record. Judgment will issue accordingly.

It is so ordered this 11th day of February, 2011.

Tim Leonard

TIM LEONARD
United States District Judge

¹Administrative Record at 21, 24.

²Administrative Record at 241.

³See, e.g., Administrative Record at 118, 125, 168, 183, 209, 228. See also Administrative Record at 284-85.